



Electronic Logging Devices Requirements for Agriculture

The Electronic Logging Device (ELD) requirement went into effect December 18, 2017. The ELD mandate was passed in the MAP-21 federal highway funding bill in 2012. This rule applies to any driver currently required to maintain records of duty status (log books) for hours of service. Vehicles subject to the hours of service rules are defined as: vehicles involved in interstate commerce and weigh 1.) 10,001 or more lbs., 2.) has a gross vehicle weight (GVW) or GV combination rating of 10,001 lbs. or more, or 3.) is transporting hazardous materials in a quantity requiring placards.

The ELD rule does not change or add to the hours of service regulations already in place. It only requires drivers subject to hours of service to have Automatic On Board Recording Devices (older devices already installed by many motor carriers) if it was installed prior to December 18, 2017 or registered ELDs (newer devices registered by the manufacturer to meet FMCSA specifications of the new rule.) After December 16, 2019 all drivers must use registered ELDs.

The rumor mill has many farmers wondering if they must comply with the ELD rule after December 18, 2017.

For the typical farmer the answer is no.

There are two types of exemptions in regulations relative to hauling agricultural commodities:

1.) Covered Farm Vehicles and 2.) Agricultural Operations.

Covered Farm Vehicles

If the farmer is not subject to hours of service regulations (is not required to have a logbook) then the farmer is not required to have an ELD installed on the vehicle. Most farmer's vehicles are considered "covered farm vehicles." A covered farm vehicle by definition is exempt (**See below for definition of covered farm vehicle**). A covered farm vehicle is exempt from Commercial Driver's License requirements, a health card, drug testing, and hours of service. Being exempt from the hours of service regulations exempts farmers from the ELD requirements. These exemptions only apply within the state of Virginia or within 150 miles of the farm if traveling out of state.

As defined in 49 CFR 390.5, a "covered farm vehicle" (CFV):

- Travels in the State in which the vehicle is registered or in another State,
- Is operated by an owner or operator of a farm or ranch, or by a family member or employee of the owner or operator
- Transports agricultural commodities, livestock, machinery or supplies to or from a farm or ranch
- Has a license plate or some other means specified by the State that identifies it as a farm vehicle (Virginia's registered Farm Vehicle tag "F-tag")
- Is not used in for-hire motor carrier operations (but for-hire operations do not include use of a vehicle owned and operated by a tenant farmer to transport the landlord's portion of the crops under a crop-share agreement)
- [From § 390.39] Is not transporting hazardous materials that require placarding, and either of the following:
 - Has a GVW or GVWR (whichever is greater) of 26,001 or less, in which case the CFV exemptions in § 390.39 apply anywhere in the United States
 - Has a GVW or GVWR (whichever is greater) of more than 26,001 pounds and travels within the State where it is registered or, if traveling out of the State where it is registered, stays within a 150 air miles of the owner or operator's farm or ranch

Agricultural Operations

There is also an exemption in the hours of service rules for private carriers and for-hire carriers transporting commodities within a 150 mile radius from the source of the commodities and for delivery of agricultural supplies and equipment from a wholesale or distribution point within 150 miles during a state's official planting and harvesting period. Virginia has a 12 month planting and harvesting period. Because of this exemption, most ag suppliers, equipment dealers, and grain haulers will also be exempt from the ELD rule. The following excerpt from the regulations is found in 49 CFR § 395.1(k):

(k) Agricultural operations. The provisions of this part shall not apply during planting and harvesting periods, as determined by each State, to drivers transporting

(1) Agricultural commodities from the source of the agricultural commodities to a location within a 150 air mile radius from the source;

(2) Farm supplies for agricultural purposes from a wholesale or retail distribution point of the farm supplies to a farm or other location where the farm supplies are intended to be used within a 150 air-mile radius from the distribution point; or

(3) Farm supplies for agricultural purposes from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies within a 150 air-mile radius from the wholesale distribution point.

Other Points to Consider

Drivers transporting agricultural commodities are not required to use an ELD if the vehicle was manufactured before the model year 2000, provided they prepare paper logs, or if they do not operate outside of the 150 air-mile radius for more than 8 days during any 30-day period, provided they prepare paper logs on the days when they are not exempt from the HOS rules.

One area of issue is livestock haulers who travel beyond the 150 radius. These drivers will be required to have the ELD installed in the vehicle, however there is currently a 90 day waiver from this requirement that expires March 18 for anyone hauling agricultural commodities. Paper log books must still be used.

This does not change any previous requirements the operators have been subject to regarding hours of service. Drivers must also have a copy of the Federal Register notice for this waiver in their possession.

Definition of agricultural commodity (49 CFR §395.2): **Agricultural commodity** means any agricultural commodity, non-processed food, feed, fiber, or livestock (including livestock as defined in sec. 602 of the Emergency Livestock Feed Assistance Act of 1988 [7 U.S.C. 1471] and insects).

American Farm Bureau Federation filed a petition for a waiver from the Federal Motor Carrier Safety Administration for livestock haulers. This waiver, if achieved, would exempt livestock haulers for one year from the ELD rule. Also, a House appropriations bill also included a one-year exemption for livestock haulers however, the appropriations bill has not been passed by the Senate.

Resource Web links

Federal Motor Carrier Safety Administration website: www.fmcsa.dot.gov

Electronic Logging Devices section: www.fmcsa.dot.gov/hours-service/elds/electronic-logging-devices

ELD Hours of Service (HOS) and Agriculture Exemptions:

<https://www.fmcsa.dot.gov/hours-service/elds/eld-hours-service-hos-and-agriculture-exemptions>

Electronic Logging Devices

Hours of Service (**HOS**), and Agricultural Exemptions

Below is a list of Hours of Service and Agricultural Exemptions.

- 49 CFR 395.1(k) provides exceptions from the HOS rules, during planting and harvesting periods as determined by the State, for the transportation of agricultural commodities (including livestock, bees and other commodities) within a 150-air mile radius from the source of the commodities. The same provision applies to the delivery of supplies and equipment for agricultural use from a wholesale or retail distribution point.
- The HOS regulations do not apply to the transportation of agricultural commodities operating completely within the 150-air mile radius by for hire or private carriers. Therefore, work and driving hours are not limited and the driver is also not required to use an Electronic Logging Device (ELD). In an operation where drivers share vehicle(s) equipped with ELDs, a driver that is always exempt can use an “Exempt Driver” account.
- Once a driver operates beyond the 150-air mile radius, the HOS regulations apply. Therefore, starting at the time and location where the transporter goes past the 150-air mile radius, the driver must maintain logs using an ELD, unless the driver or the vehicle meets one of the limited ELD exemptions. The driver must work and drive within the limitations of the HOS rules when operating beyond the 150-air mile radius. Time spent working within the 150 air-mile radius does not count toward the driver’s daily and weekly limits.
- When operating within the 150 air-mile radius the driver should not log into the ELD. Upon exiting that radius, the driver should then log into the ELD, and annotate that any unassigned miles accumulated prior to that point were exempt miles.
- Drivers transporting agricultural commodities are not required to use an ELD if the vehicle was manufactured before the model year 2000, provided they prepare paper logs, or if they do not operate outside of the 150 air-mile radius for more than 8 days during any 30-day period, provided they prepare paper logs on the days when they are not exempt from the HOS rules.
- Covered farm vehicles, as defined in 49 CFR 390.5, are exempted from the HOS regulations per 49 CFR 395.1(s). Carriers operating under this exemption are also not required to have an ELD. This only applies to private transportation of agricultural commodities, including livestock by the owner or operator of a farm or ranch, or their family members or employees.

